

PROSPECT CONGREGATIONAL
CHURCH

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 1998

Mr. MALONEY of Connecticut. Mr. Speaker, I bring to the attention of the American public and the U.S. House of Representatives an upcoming celebration in Connecticut's 5th Congressional District that commemorates the 200th anniversary of the Prospect Congregational Church in Prospect, Connecticut. The event will be during May 16th and 17th, 1998.

The Prospect Congregational Church typifies the image that most would have of churches in the New England region of our country. It is a white clapboard style structure that sits on a town green. It serves a congregation of 336, mostly from the Prospect, Waterbury and Cheshire areas, and is a member of the Connecticut Conference of the United Church of Christ, which traces its history to the Connecticut Missionary Society, founded in May, 1798. The church was organized officially on May 14th, 1798 by sixteen local residents on land owned and donated by John Lewis for the purpose of building a religious structure. The first pastor was the Rev. Oliver Hitchcock. Some fifty years later, his grandson, Rev. Joseph Payne arrived and brought new vitality to the church. Rev. Payne was related to Lyman Beecher and Harriet Beecher Stowe and through his leadership, a strong anti-slavery influence was felt in the church and throughout the community.

During the course of the past two hundred years, the Prospect Congregational Church has been housed in four different structures. These structures were necessary due to both growth of the congregation as well as to the occurrence of two fires—one on November 17, 1906 and a second one on November 29, 1941. The current structure was dedicated on July 15, 1951.

There have been 44 different pastors in the Church's history, including one woman, from 1957 to 1966. The current pastor, the Rev. Howard L. Hinman, has served the church since 1988.

Mr. Speaker, the Prospect Congregational Church has served as a mainstay not only for its congregation, but for the community as a whole. It has been a source of strength to individuals for two centuries and will continue to add to the civic and religious foundation that has long served the Prospect community. On behalf of the 5th Congressional District and the House of Representatives, I congratulate all members, past and present, of the Prospect Congregational Church and send best wishes for a very successful celebration of this historic event.

CONGRATULATING ISRAEL'S
ANNIVERSARY

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 1998

Mr. YATES. Mr. Speaker, my time in Congress is almost the same as Israel's birth and growth. I was elected to the House for the first

time in November 1948. Israel became a Nation in May 1948. I have known all of its leaders and Ambassadors to the United States, including Yitzhak Rabin, Ben Gurion, Levi Eshkal, Golda Meir, Moshe Dayan, and the other stalwarts in a long line of patriots who have developed Israel into the splended nation it is today.

Today, Addie and I would like to extend our profound congratulations to Israel, whose courage and dignity have been an inspiration to the world.

Happy Anniversary Israel.

FAMILY AND MEDICAL LEAVE
CLARIFICATION ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 1998

Mr. FAWELL. Mr. Speaker, I rise today to introduce a bill which would make reasonable, and much needed, changes to the Family and Medical Leave Act of 1993. The Family and Medical Leave Clarification Act will help the FMLA be implemented and enforced in a manner Congress originally intended when it passed the Act in 1993.

I do not think anyone would dispute that the FMLA has done some good for those with serious family and medical crises. However, some of the troublesome results are difficult to ignore. The fact of the matter is there is compelling evidence of problems with the implementation and enforcement of the FMLA—problems which effect both employers and employees. The FMLA is still a relatively young law. In fact, the final rule implementing the Act was not published until 1995. As with any new law, there are some growing pains that need to be sorted out.

As became evident during an extensive hearing last year in the Committee on Education and the Workforce, there is evidence of myriad problems in the workplace caused by the FMLA's intermittent leave provisions, of additional burdens from overly broad and confusing regulations of the FMLA—not the least of which is the Department of Labor's ever-expanding definition of "serious health condition," of inequities stemming from employers with generous leave policies being in effect penalized under the FMLA for having those policies, and of often incomplete FMLA medical certifications filed under the Act.

Mr. Speaker, the FMLA created a Commission on Leave, which was charged with reporting the FMLA's impact. Upon release of the Commission's report in April 1996, we were told that all was well with the FMLA. But contrary to these assertions, the report was not a complete picture. In fact, the Family and Medical Leave Act Commission admitted its report was only an "initial assessment." Its 2-year study began in November of 1993, just three months after the Act even applied to most employers and more than a year before the release of final FMLA regulations in January of 1995. Simply put, the Commission's report was based on old and incomplete data, looked at long before employers or employees could have been fully aware of the FMLA's many requirements and responsibilities.

Mr. Speaker, the first area the FMLA Clarification Act addresses is the Department of

Labor's overly broad interpretation of the term "serious health condition." In passing the FMLA, Congress stated that the term "serious health condition" was not intended to cover short-term conditions for which treatment and recovery were very brief, recognizing specifically in Committee report language that "it is expected that such conditions will fall within the most modest sick leave policies."

Despite Congressional intent, the Department of Labor's current regulations are extremely expansive, defining the term "serious health condition" as including, among other things, any absence of more than three days in which the employees sees any health care provider and receives any type of continuing treatment (including a second doctor's visit, or a prescription, or a referral to a physical therapist). Such a broad definition potentially mandates FMLA leave where an employee sees a health care provider once, receives a prescription drug, and is instructed to call the health care provider back if the symptoms do not improve.

Most of the leave taken under the FMLA has been for employee's own illnesses most of which were previously covered under sick leave policies. The FMLA has become a national sick leave program—contrary to the strong assertions of the bill's original supporters. Furthermore, the Department of Labor has been inconsistent and vague in its opinion letters, leaving employers guessing as to what the DOL and the Courts will deem to be "serious."

The FMLA Clarification Act reflects Congress' original intent for the meaning of the term "serious health condition," by taking word-for-word from the Democrats' Committee report, and adding to the statute, the then-Majority's explanation of what types of conditions it intended the Act to cover. It also repeals the DOL's current regulations on the issue and directs the agency to go back to the drawing board and issue regulations consistent with the new definition.

My bill also minimizes tracking and administrative burdens while maintaining the original intent of the law, by permitting employers to require employees to take "intermittent" leave—FMLA leave taken in separate blocks of time due to a single qualifying reason—in increments of up to one-half of a work day.

Congress drafted the FMLA to allow employees to take leave in less than full-day increments. The intent was to address situations when an employee may need to take leave for intermittent treatments, e.g., for chemotherapy or radiation treatments, or other medical appointments. Granting leave for these conditions has not been a significant problem. However, the regulations provide that an employer "may limit leave increments to the shortest period of time that the employer's payroll system uses to account for absences or use of leave, provided it is one hour or less." 825.203(d). Since some employers track in increments of as small as six or eight minutes, the regulations have resulted in a host of problems related to tracking the leave and in maintaining attendance control policies. In many situations, it is difficult to know when the employee will be at work, and in many positions, an employee who has frequent, unpredictable absences can play havoc with the productivity and scheduling of an entire department when employers do not know if certain employees will be at work. Allowing an employer to require an employee to take intermittent leave in increments

of up to one-half of a work day would ease the burden significantly for employers, both in terms of necessary paperwork and with respect to being able to cover efficiently for absent employees.

Where the employer does not exercise its right to require the employee to substitute other employer-provided leave under the FMLA, the FMLA Clarification Act shifts to the employee the need to request leave be designated as FMLA leave, and requires the employee to provide written application within five working days of providing notice to the employer for foreseeable leave, and within a time period extended as necessary for unforeseeable leave, if the employee is physically or mentally incapable of providing notice or submitting the application.

Requiring the employee to request that leave be designated as FMLA leave eliminates the need for the employer to question the employee and pry into the employee's and the employee's family's private matters, as required under current law, and helps eliminate personal liability for employer supervisors who should not be expected to be experts in the vague and complex regulations which even attorneys have a difficult time understanding.

With respect to leave taken because of the employee's own serious health condition, the FMLA Clarification Act permits an employer to require the employee to choose between taking unpaid leave provided by the FMLA or paid absence under an employer's collective bargaining agreement or other sick leave, sick pay, or disability plan, program, or policy of the employer. This change provides incentive for employers to continue their generous sick leave policies while providing a disincentive to employers considering getting rid of such employee-friendly plans, including those negotiated by the employer and the employee's union representative. Paid leave would be subject to the employer's normal work rules and procedures for taking such leave, including work rules and procedures dealing with attendance requirements.

Despite the common belief that leave under the FMLA is necessarily unpaid, employers having generous sick leave policies, or who have worked out employee-friendly sick leave programs with unions in collective bargaining agreements, are being penalized by the FMLA. In fact, for many companies, most FMLA leave has become paid leave because the regulations state that an employer must observe any employment benefit program or plan that provides greater rights than the FMLA. Furthermore, because employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions, nor can they count FMLA leave under "no fault" attendance policies, the regulations prohibit employers from using disciplinary attendance policies to manage employees' absences, even though employers are required to pay for the absences under their short-term disability programs if either the employee or the employer elects to substitute paid leave.

My bill also addresses some of the problems employers often face in determining the validity of an employee's FMLA certification, by clarifying that sufficient certification under the FMLA must include "the appropriate medical facts, which must be documented by objective medical findings."

Health care providers are accustomed to responding to telephone inquiries from employ-

ers' health care providers and the information they provide on the FMLA certification form is often internally inconsistent or does not support a finding of incapacity. The bill would require the employee's health care provider to document on the form the objective medical findings supporting the finding of incapacity. Due to the limits imposed by the Department of Labor's regulations, the employer's health care provider cannot even call the employee's health care provider if the employee declines to give permission. Nor can the employer's health care provider obtain the usual documentary support for a disability. These limitations either lead the employer to deny FMLA coverage due to lack of sufficient certification, or to grant FMLA coverage despite the lack of sufficient factual support just to avoid a dispute. This clarification would simply give the employer more information upon which to determine whether or not a leave request qualifies under the FMLA.

SINGING LANCERS—A SOURCE OF PRIDE FOR THE SPRINGFIELD COMMUNITY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 1998

Mr. HYDE. Mr. Speaker, the choirs of Lee High School in Springfield, Va. drew words of praise from faculty and community residents following their participation in the competitive April 17 Boston Music Festival.

Every year the group competes in Music Festivals representing Lee High School and the community's finest youth. Under the direction of Mr. G. Lindsey Florence, the Singing Lancers, known for their high standards of music excellence, returned from the April 17 competition holding their silver and bronze trophies high with pride. The Madrigals and Ladies Chamber Choir carried the Silver and the Concert and Lee Freshmen Choirs held the Bronze. This is an exceptional honor because the four choirs' performance were adjudicated on a college and professional level by a panel of three judges.

Their achievement deserves recognition, and it gives me great pleasure to acknowledge each of these fine young men and women. Congratulations to: Matt Aberant, Denise Absher, Karen Albers, Jessica Alonzo, Amanda Anderson, Kristine Antiporda, Mary Assad, Hyun Bae, Lena Berdecia, Katie Brado, Kelly Brehm, Lauren Buchanan, Ashley Bush, Nicki Clark, Rachel Cooper, Liz Cego, Lindsay Cronin, Rachel Cully, Jeni Davis, Abigail Dosh, Kelly Dreier, Mary Fitzgerald, Ashley Flanders, Heather Flemming, Kristine Foulkes, Kyle Freeland, Chris Fritz, Reagan Goodman, Brian Gresham, Rachel Griffin, Kristen Hampton, Chipp Hewitt, Dan Hinson, April Holloman, Michelle Hudgens, Brandy Hume, J.P. Javier-Wong, Tim Jeffers, Erlend Johnson, Dan Kim, Tasha Kulenguski, Peter Laver, Danielle Lawson, Mike Lazear, Darice Lee, Natalie Lent, Amanda Lindberg, Jennifer Little, Madeline Mace, Candace Mallon, Courtney Mallon, Chris Marfori, Maggie Martin, Tara McCabe, Heather McKay, Darin McMillen, Dave McMullin, Meg Meyer, Abby Meyer, Carrie Moore, Jason Morgan, Shaun Newman, Jared Orton, John Oudomsouk, Tim Parsons,

Alicia Perretti, Jessica Piansky, Rachel Plowman, Michelle Poling, Jason Potts, Leslie Potts, Alicia Powell, Lindsay Powers, Anna Ramedo, Davis Reynolds, Ian Richmond, Brook Rubeor, Amy Simpson, Julie Saholsky, Jenny Sellers, Liz Shwaery, Sara Sikorra, Leslie Simpson, Beth Sivola, Justin Smallwood, Kirstin Stamper, Julie Stoops, Stacey Stratton, Dawn Thompson, Christal Wells, Melissa Wilkerson, Sarah Wills, Eric Womac, Kelsey Wright, and Christina Yip.

PALCARE—MODEL CHILD CARE CENTER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 1998

Mr. LANTOS. Mr. Speaker, last week President Clinton delivered an important address in the Rose Garden about the critical need for quality, affordable child care in our country. The President reviewed several ideas and proposals designed to meet this demand, contending that we have "to act on the overwhelming weight of the evidence about the importance of the earliest years in the child's life."

I wholeheartedly agree with President Clinton, and I believe that I can point him to an outstanding example of what can and should be done. Palcare in Burlingame, California, is an exceptional, nonprofit child care center designed to address the most serious concern that dual-income and single-parent families in the Bay Area are forced to confront—the need to ensure a safe, nurturing environment for their children. I visited Palcare last month and came away with an immense appreciation for its educational excellence, its devoted staff, and, most of all, its invaluable assistance to mothers and fathers from across the Peninsula.

I am delighted to congratulate Palcare on the fifth anniversary of its opening and on its exceptional record of community service in San Mateo County.

As our country has shifted from an industrial to a service-based structure, the traditional one-income family has become more the exception than the rule, and 9-to-5 work days are increasingly becoming a rarity. Many single parents hold three or more jobs, struggling to create a positive environment for their children while fighting to earn the financial resources to feed them, clothe them, and educate them.

Palcare responds to their social dilemma described by former U.S. Secretary of Labor Robert Reich during a visit to the child care center in 1995: "Finding good child care is a challenge for everyone, but it's compounded by nonstandard hours. Our service-based economy is increasingly running 24 hours. Parents are required to work early in the morning, nights and on weekends."

Mr. Speaker, this excellent child care center provides the highest quality service night and day, seven days per week, for over two hundred families. It enhances the work force by enabling parents to take jobs they would otherwise be unable to accept; it gives our youngest citizens a constructive educational milieu in which to grow; and, perhaps most important, Palcare allows mothers and fathers